

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DENNIS J. TYE,

Plaintiff,

v.

CAROLYN W. COLVIN,
Commissioner of Social Security,

Defendant.

No. CV-13-171-JTR

ORDER GRANTING STIPULATED
MOTION FOR REMAND
PURSUANT TO SENTENCE SIX
OF 42 U.S.C. § 405(g)

BEFORE THE COURT is the parties' stipulated motion to remand the above-captioned matter to the Commissioner for a *de novo* hearing pursuant to sentence six of 42 U.S.C. § 405(g). ECF No. 17. Attorney Joseph Linehan represents Plaintiff; Special Assistant United States Attorney Catherine Escobar represents Defendant. The parties have consented to proceed before a magistrate judge. ECF No. 7.

Plaintiff filed his complaint in this matter on May 8, 2013. ECF No. 1. Defendant has not yet filed an answer to the complaint. Pursuant to sentence six of 42 U.S.C. §§ 405(g), the Court may remand the case to the Commissioner for good cause shown before an answer is filed and retain jurisdiction. *See Melkonyan v. Sullivan*, 501 U.S. 89, 98, 101 n.2 (1991). Here, the parties agree that remand is necessary because significant portions of the recording of the administrative

1 hearing held on August 24, 2011, are inaudible. ECF No. 17 at 1-2. After
2 considering the file and proposed order, the Court finds good cause exists for the
3 matter to be remanded for a *de novo* hearing and a new ALJ decision.

4 Accordingly,

5 **IT IS ORDERED:**

6 1. The parties' stipulated motion for remand pursuant to sentence six of
7 42 U.S.C. § 405(g), **ECF No. 17**, is **GRANTED**.

8 2. Upon receipt of the Court's Order of remand, the Appeals Council
9 shall remand the case to an ALJ for a *de novo* hearing and a new decision.

10 3. If the outcome of the *de novo* hearing is not favorable to Plaintiff,
11 Plaintiff may seek judicial review by reinstating this case rather than by filing a
12 new complaint.

13 4. If the outcome of the administrative proceedings is fully favorable to
14 Plaintiff, the parties shall file a motion to dismiss the complaint.

15 5. **The Court will retain jurisdiction of this action; no judgment shall**
16 **be entered until further order of the Court.**

17 The District Court Executive is directed to enter this Order, forward copies
18 to counsel, and **ADMINISTRATIVELY CLOSE THE FILE**.

19 DATED October 30, 2013.



A handwritten signature in black ink, appearing to be "M", is written over a horizontal line.

JOHN T. RODGERS
UNITED STATES MAGISTRATE JUDGE